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OFFICE OF PETITIONS

In re Application of

:
Yong Guen Lee

Application No. 10/627,057

: DECISION ON PETITION

Filed: July 25, 2003

:
Attorney Docket No. 20059/PIA30746

This is a decision on the petition under 37 CFR 1.137(a) filed January 30, 2006. The petition will be treated as a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment

The petition is granted.

This application was held abandoned on October 1, 2005, after no reply was received to the final Office action mailed June 30, 2005. The notice set forth a shortened statutory period for reply of three months from its mailing date. A Notice of Abandonment was not mailed. The instant petition was filed on January 30, 2006. Petitioner maintains that the notice of September 30, 2005, was never received.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as to prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed. It is noted that the relevant docket records did not accompany the petition. Notwithstanding the aforementioned, a review of the application file reveals that the final Office action was mailed on June 30, 2005, but returned as undeliverable on July 21, 2005. There is no indication that the final Office action was mailed again. The evidence is convincing that the final Office action was not received. The petition is granted, accordingly.

The fee for the petition under 37 CFR 1.137(a) will be refunded, in due course.

The application file is being forwarded to Technology Center 2800, GAU 2822 for further processing.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

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Office of Petitions